



SEIZURE, STORAGE, AND FORFEITURE OF MONEY

FC No.: 722
Date: 07-16-04

If a provision of a regulation, departmental directive, rule or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with state law or the Police Collective Bargaining Law. (FOP Contract, Article 16)

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I. CDS or Gambling Violations

- A. CDS Violations
The Criminal Procedure Article 12-201 and 12-202 authorizes, but does not compel, seizure and subsequent forfeiture of "All money, coin, or currency which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of CDS or controlled paraphernalia. All money, coin, or currency which is found in close proximity to contraband CDS, controlled paraphernalia, or forfeitable records of the importation, manufacture, or distribution of CDS are presumed to be forfeitable under this paragraph. The burden of proof is upon a claimant of the property to rebut this presumption. This money or currency shall be deemed to be contraband of law and all rights, title and interest in and to the money or currency shall immediately vest in and to . . . the county in which it was seized, . . . and no such money or currency shall be returned to any person claiming it, or to any other person, except in the manner . . . provided."
- B. Gambling Violations
Criminal Procedure Article 13-102 authorizes, but does not compel, seizure and subsequent forfeiture of gambling related money as follows: "Whenever any money, currency, or cash is seized

or captured by any police officer in this State in connection with any arrest for the playing or operation of any bookmaking, betting or wagering on horses or athletic events, or any lottery, game, table, or (gambling) device unlawful under the provisions of this article, all such money, currency, or cash shall be deemed prima facie to be contraband of law as a gambling device or as a part of a gambling operation. All rights, title, and interest in and to such money, currency, or cash seized by the police of the local government shall immediately vest in and to the local governments of the county, . . . or if seized by State authorities, to the State, and no such money, currency, or cash shall be returned to any person claiming the same, or to any other person, except as provided in this section."

- C. Restrictions on Money Seized (CALEA 74.4.1)
The policy of the department will be to act pursuant to applicable law and court interpretations regarding the seizure of money. The following guidelines will apply in deciding whether to initiate seizure and forfeiture proceedings as outlined in sections I.A and B:
 - 1. Seizure of money will be authorized only when the defendant is charged with one of the following:
 - a. Possession of CDS
 - b. Distribution of CDS
 - c. Possession with the Intent to Distribute CDS
 - d. Manufacturing CDS
 - e. Gambling violations
 - f. Conspiracy to commit any of the above
 - 2. Money in an amount of less than \$100.00 will not be seized except on a case-by-case basis. Unit supervisors, after conferring with a Drug Enforcement Section (DES) supervisor, may authorize a seizure of less than \$100.00. Except in unusual circumstances, no coins will be seized.
- D. When an investigating officer determines that the seizure and forfeiture of such money is authorized, the officer will: (CALEA 74.4.1)
 - 1. Seize the money and complete an MCP 599, "Notice of Money Seizure."
 - 2. Include in the event report: (CALEA 84.1.1.c)
 - a. The exact location(s) in relation to the narcotics or gambling paraphernalia from which the money was seized.

- b. The respective amount(s) of money seized from each location.
 - c. The types and approximate quantities of CDS seized.
 - d. The name of the officer who seized the money.
3. Photocopy or photograph the money for use in court and record the serial numbers (photocopy at 66% or 77%, photograph at less than 100%).
 4. Separate the money by denomination and place into a heat sealable plastic bag. ***Place a completed black MCP 724, "Evidence/Property" label on the outside of the bag. The amount of money should be verified by two officers.*** Only US currency/coins will be placed in this bag. Foreign currency, wallets, purses, etc. will be handled as evidence. The evidence bag will be heat sealed and the seizing officer will sign along the seal. Complete and attach to the outside of the evidence bag all copies of both a completed MCP 526, "Receipt for Property Form," and a completed MCP 722, "Seized/Recovered Money Memo." The package will be placed in the district or unit CDS evidence mailbox. This will be completed prior to the end of the officer's tour of duty. (CALEA 84.1.1.b, 84.1.1.d)
 5. Forward the following to the Director, Special Investigations Division (SID):
 - a. Two copies of the event report
 - b. Two copies of each arrest report
 - c. The original and a copy of the MCP 599
 - d. ***Two copies*** of the defendant's criminal history record
 - e. ***Two copies*** of the search warrant and return inventory, if applicable
 - f. ***Two copies of the MCP 722***
 6. ***If the seized currency is contaminated with body fluids (blood, semen, etc.), the submitting officer must:***
 - a. ***Separate the contaminated currency***
 - b. ***Place the currency in a white envelope with a clear cellophane display window***
 - c. ***Attach an MCP 724 and biohazard label to the envelope***
 - d. ***Document on the MCP 526 and MCP 722.***
- E. Court Disposition
Within 10 days of any court disposition, the investigating officer will notify the Director, SID, by memorandum, including the following:
1. Defendant's full name
 2. Amount of money subject to forfeiture
 3. Date of sentencing

4. District or Circuit Court case number that the defendant will be sentenced under

F. Special Investigations Division's Responsibility

1. Upon receipt of the notification of currency seizure, the Director, SID, will review the facts of the case and determine whether forfeiture proceedings should be initiated.
2. In the event forfeiture proceedings are in order, the Director, SID, will:
 - a. Within 90 days from the date of the defendant's sentencing for the CDS or gambling violation, submit a memorandum to the State's Attorney's Office requesting that forfeiture proceedings be initiated.
 - b. Prepare an affidavit for the seizing officer to sign attesting to the seizure of the money. This affidavit is required in all money forfeiture proceedings.
 - c. Maintain a case file on all monies or currency seized under the authority of this directive.

II. Other Criminal Investigations

- A. Officers will package and store the money as described in sections I.D.3 and 4. As an alternative, once serial numbers have been recorded and the money has been photocopied or photographed, officers may return the money to the victim.
- B. Occasionally, money having evidentiary value will be seized and must be saved for use in court. Examples include money containing forensic evidence, rare or valuable coins or currency, and foreign money. In those cases, officers will indicate on an MCP 722 that the money will be retained in the county's safe deposit box for use as evidence. Forensic evidence should be collected prior to submitting the money for storage. Follow procedures outlined in FC 731, "Crime Laboratory Section," to request a forensic examination of money. For ninhydrin testing, follow procedures outlined in FC 726, "Forensic Services Section."
- C. To request the temporary release of money stored in the county's safe deposit box for use in court, officers will submit a memorandum directly to the Supervisor, Central Supply Section, Evidence Unit, at least two working days prior to the date the funds are needed (excluding Saturday, Sunday, and Holidays). Upon completion of the court hearing, the money will be immediately returned to the Central Supply Section Supervisor. (CALEA 84.1.1.g)

- D. When funds are no longer needed as evidence, the officer will return the money to the owner pursuant to section V.B. If the owner is unknown, the officer will submit a memorandum to the Central Supply Section Supervisor requesting the money be transferred into the county's escrow account.

III. Recovery of Unidentified Money

- A. When money that is not evidence is turned over to the police, the finder will be advised that the finder may be entitled to the money if the owner is not located. The finder will be instructed to contact the reporting officer after 45 days and before 60 days to claim the money in question. If a claim is made, the reporting officer will follow the procedures in section V.B.

- B. Officers will make a reasonable effort to locate the owner. If the owner remains unidentified, the officer will package and store the money as described in section I.D.4, and indicate on the MCP 722 that the money is to be deposited into the county's escrow account. (CALEA 84.1.1.f)

IV. Storage of Seized/Recovered Money

- A. District/Unit Property Officer Responsibilities
Upon retrieval of stored money from the district/unit evidence drop, the property officer will transport the money to the Evidence Unit, Central Supply Section, at Headquarters. After receipt of the package by the Evidence Unit personnel, the district/unit property officer will return one copy of the MCP 722 to the seizing officer. If the money was seized in connection with a CDS or gambling violation as outlined in section I, the district/unit property officer will forward the second copy of the MCP 722 to the Director, SID.

- B. Evidence Unit, Central Supply Section, Responsibilities
The Evidence Unit, Central Supply Section, property officer will acknowledge receipt of the money and retain the original MCP 722. All other copies will be returned to the district/unit property officer.

V. Release of Seized/Recovered Money

- A. Money seized in connection with CDS or gambling violations will only be released by authority of the State's Attorney's Office. The Director, SID, will be responsible for processing these requests for disbursement.

- B. Officers requesting the release of money in all other cases will prepare a memorandum to the Evidence Unit Supervisor, via the officer's bureau chain of command, the department's legal advisor, and the Chief of Police. The memorandum will include the total amount to be released, the recipient's name and current address, and all pertinent details surrounding the recovery and subsequent reasons for its release. A copy of all related reports will be attached to the memorandum. The Evidence Unit Supervisor will update the evidence database and forward the request to the **Management and Budget Division**, Financial Management Section. The Financial Management Section will be responsible for processing disbursement requests that have been approved by the Chief of Police, or designee. (CALEA 84.1.1.g)

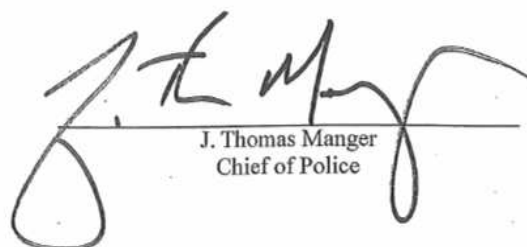
VI. Records of Transactions

The Evidence Unit Supervisor will maintain records of all funds withdrawn from or deposited to the safe deposit box. The Financial Management Section will maintain records of all funds withdrawn from or deposited to the escrow account.

- VII. **Proponent Units:** Special Investigations Division and Central Supply Section

VIII. Cancellation

This directive cancels Function Code 722, effective date 01-05-00.



J. Thomas Manger
Chief of Police